

URESPEC LIMITED

STANDARD CONDITIONS OF BUSINESS

1. MEANING OF TERMS USED IN CONDITIONS

The following definitions apply to the Contract and in these Conditions:

Buyer	the person firm or company which issues a Purchase Order accepted by the Seller
Conditions	the conditions of business for the sale of the Goods and provision of Services set out below as amended from time to time and "Condition" followed by a paragraph or sub paragraph number refers to the paragraph or sub paragraph specified in respect of that Condition
Contract	the contract between the Seller and the Buyer consisting of a Quotation (if provided) these Conditions the Purchase Order and the Order Acceptance and the Invoice
Contract Price	the aggregate price of the Goods together with the delivery cost of the Goods and where provided the Services
Goods	the materials (including except where otherwise expressly stated any instalment(s) of the materials) listed in the Purchase Order the Order Acceptance and the Invoice
Invoice	the invoice issued by the Seller for the Goods together where provided with the Services and where charged separately the cost of delivering the Goods
Order Acceptance	the Seller's written acceptance of the Buyer's Purchase Order
Purchase Order	the order for purchase of the Goods and where requested any Services submitted in Writing by the Buyer in response to any Quotation
Quotation	any written quotation for the Goods and where requested Services provided by the Seller in response to the Buyer's purchase enquiry
Seller	Urespec Limited a company registered in England and Wales under registered number 06172555
Seller's Price	the current price of the Goods
Services	any technical or other advice and assistance which the Seller agrees to provide to the Buyer in respect of the Goods
VAT	value added tax and any tax at any time substituted for it in any jurisdiction having the same or similar purpose and effect
Website	the websites of the Seller maintained under the domain names www.urespec.com and www.urespecpolyols.com
in Writing	includes facsimile transmission electronic mail and any comparable present or future means of electronic communication

2. SCOPE

- 2.1 These Conditions apply to
 - 2.1.1 the exclusion of all other terms and conditions of business or trading of the Buyer or any other person firm or company
 - 2.1.2 the Contract and all other contracts for the sale and purchase of goods and services at any time made between the Seller and the Buyer
- 2.2 The acceptance of any Quotation provided by the Seller and lodgement of a Purchase Order by the Buyer shall constitute an offer by the Buyer to purchase the Goods and where required the Services pursuant to the Contract when accepted by the Seller in accordance with Condition 3.1
- 2.3 The Conditions shall not be affected by any previous dealing or course of dealing between the Seller and the Buyer
- 2.4 Each Contract shall be treated in law as being separate from each and any other contract arrangement or agreement between the Seller and the Buyer
- 2.5 The Buyer acknowledges and agrees that
 - 2.5.1 none of the Seller's employees agents or independent contractors is authorised to make any representation about the Goods other than as expressly stated in the manufacturer's published literature or the Services where provided
 - 2.5.2 the Buyer does not rely on any representation by any employee agent or independent contractor of the Seller not confirmed in accordance with Condition 2.5.1
 - 2.5.3 the description of products (including the Goods) and Services if any (including the Services) in any advertising material catalogue or other publicity material published or otherwise provided by the Seller is for information purposes only and does not constitute a term of the Contract
- 2.6 Any error or omission in respect of information on the Websites or in any Quotation Purchase Order, Order Acceptance Invoice or variation to the Contract shall be subject to immediate correction in Writing on notification by either the Seller or the Buyer to the other but shall be without liability on the part of the Seller to the Buyer

3. PURCHASE ORDER AND CONTRACT

- 3.1 No Contract shall come into existence between the Seller and the Buyer for the sale and purchase of the Goods and where provided the Services unless and until the Seller issues an Order Acceptance in respect of the Purchase Order
- 3.2 The Buyer undertakes to the Seller that the Purchase Order shall accurately reflect the terms of any Quotation subject to any variation required by the Buyer and agreed by the Seller in accordance with Condition 22 and shall include any specific requirements in respect of the Goods
- 3.3 The quantity and product description of the Goods and description of any Services requested together with the address for delivery of the Goods shall be clearly set out in the Purchase Order

4. SERVICES

- 4.1 Where the Seller agrees in accordance with the Contract to perform any Services it shall do so with reasonable care and skill and in accordance with the request or instructions provided by the Buyer
- 4.2 Where any Services are to be provided the Buyer shall permit or procure the provision of site access and all reasonable assistance requested by the Seller to facilitate the performance by the Seller's authorised representative(s) of the Services in accordance with the Contract
- 4.3 The Seller shall use reasonable endeavours to perform the Services within any timescale agreed with the Buyer or if no timescale is agreed then within a reasonable time of the date on which delivery of the Goods takes place but shall not be liable to the Buyer or any customer of the Buyer for any delay in performing the Services
- 4.4 The Buyer shall notify the Seller of any concern or complaint it wishes to raise in connection with the performance of the Services in Writing without delay and the Seller shall investigate the concern or complaint as soon as it is practicable to do so
- 4.5 If on proper investigation under Condition 4.4 the Seller
- 4.5.1 accepts the concern or complaint is justified it shall inform the Buyer in Writing of the Seller's conclusions and take such action as the Seller considers appropriate to deal with the matter as soon as practicable at no additional cost to the Buyer
- 4.5.2 considers the concern or complaint is not justified it shall inform the Buyer in Writing as soon as possible
- 4.6 Any request by the Buyer or the Seller to vary the manner timescale or circumstances in which Services are provided shall be notified to the other as soon as possible and confirmed in Writing
- 4.7 If the Seller agrees to a request by the Buyer to vary the manner of provision of the Services in accordance with Condition 4.6 the Buyer shall indemnify the Seller in full against any loss or additional costs incurred by the Seller in implementing the variation

5. CONFORMITY WITH CONTRACT

- 5.1 The Seller undertakes to the Buyer that the Goods and where provided the Services will subject to any minor variation arising from any unforeseen circumstances conform with the Contract and any variation of the Contract under these Conditions
- 5.2 Condition 5.1 shall not restrict or be deemed to restrict the right of the Seller with the prior agreement in Writing of the Buyer but at no additional cost to the Buyer or any customer of the Buyer to introduce goods with improved performance capabilities in place of the Goods provided that the improvements do not to the knowledge of the Seller materially affect the utility of the Goods for their intended purpose

6. CONTRACT PRICE

- 6.1 Subject to Condition 6.2 as respects the price of the Goods
- 6.1.1 the Contract Price shall be the aggregate price of the Goods and where provided the Services together with delivery costs stated in any Quotation or where the price for the Goods has changed since any Quotation was provided the price otherwise advised by the Seller in Writing to the Buyer current at the date the Seller accepts the Purchase Order and issues an Order Acceptance unless the Seller agrees otherwise in Writing with the Buyer
- 6.1.2 the Contract Price shall be valid for fourteen (14) days from and including the date of any Quotation or until earlier acceptance by the Seller of the Purchase Order in accordance with Condition 3.1
- 6.2 The costs of packaging insurance carriage and delivery together with all (if any) import and export duties levies and taxes (except VAT) are included in the Contract Price unless expressly stated otherwise in Writing by the Seller in any Quotation or Order Acceptance
- 6.3 The Contract Price excludes VAT which shall be payable by the Buyer in addition to the Contract Price

7. PAYMENT SETTLEMENT TERMS

- 7.1 Subject to Condition 7.2.1 if the Goods are to be delivered to the premises of the Buyer or elsewhere on the instructions of the Buyer or are to be collected by the Buyer or the Buyer's representative(s) the Seller may invoice the Buyer for the Contract Price on or at any time after despatch of the Order Acceptance unless the Seller shall agree otherwise in Writing with the Buyer
- 7.2 The Buyer shall pay the Contract Price
- 7.2.1 if the Seller has not traded with the Buyer previously and has no trade references or bank account details for the Buyer on receipt of an Order Acceptance and Invoice from the Seller
- 7.2.2 if the Seller has previously traded with the Buyer and the Buyer has provided the Seller with not less than 3 satisfactory trade references and details of the Buyer's bank within a period of not more than 30 days stated in any Order Acceptance sent to the Buyer.
- 7.3 The Seller will not issue an Order Acceptance or Invoice to any Buyer for which the Seller does not have satisfactory trade references and appropriate bank details until the Seller has received the Contract Price as cleared funds
- 7.4 The Seller reserves the right
- 7.4.1 to modify vary or withdraw any credit terms offered to the Buyer at any time without prior notice
- 7.4.2 to add to the Contract Price a further sum equivalent to any transaction fee or other costs charged to the Seller by the Seller's bank in consequence of the method of payment adopted by the Buyer
- 7.5 The Seller shall not be required or contractually bound under the Contract or otherwise to despatch any Goods to the Buyer or to permit the Buyer the Buyer's representative(s) or the Buyer's customer to collect and remove the Goods whilst the Contract Price or any part of it remains unpaid and due to the Seller
- 7.6 The Seller shall be entitled to enforce payment of the Contract Price whether or not delivery or collection of the Goods has taken place once a Purchase Order has been accepted by the Seller and an Order Acceptance sent to the Buyer
- 7.7 The time for payment of the Invoice is of the essence of the Contract unless the Seller agrees otherwise
- 7.8 No acknowledgement of receipt of the Contract Price will be issued by the Seller
- 7.9 If the Buyer fails to pay the Invoice in full by the Invoice payment date the Seller may at its discretion:
- 7.9.1 cancel the Contract and subject to Condition 7.5 demand the return of the Goods at the cost of the Buyer
- 7.9.2 if the Goods are to be delivered but delivery has not yet taken place suspend delivery of the Goods or any instalment of the Goods or any other goods deliverable to or to the order of the Buyer
- 7.9.3 if the Goods are to be collected but collection has not yet taken place refuse collection of the Goods or any instalment of the Goods by the Buyer the Buyer's representative(s) or the Buyer's customer
- 7.9.4 appropriate any payment made by the Buyer towards the Contract Price to any of the Goods (or goods supplied under any other contract between the Buyer and the Seller in respect of which monies remain outstanding) as the Seller in its absolute discretion shall decide

- 7.9.5 charge the Buyer interest from and including a date thirty (30) days or any shorter period specified for payment to be made after the date of Invoice (both before and after any court judgement) on the unpaid amount of the Invoice at the rate of three per centum (3.0%) above the base lending rate from time to time of HSBC Bank plc until payment in full in cleared funds is received by the Seller
- 7.10 The remedies referred to in Condition 7.9 may at the discretion of the Seller be exercised by it individually or in combination and do not restrict or replace any other legal right or remedy available to the Seller
- 7.11 The Buyer shall not be entitled to make any deduction from or withhold the whole or any part of the payment due in respect of any Invoice by way of set off or otherwise
- 7.12 The Seller will not provide the Buyer with any Services unless and until the Contract Price and any other costs referred to in these Conditions arising from the sale of the Goods to the Buyer have been paid in full

8. DELIVERY

- 8.1 Delivery of the Goods shall take place
- 8.1.1 if the Goods are to be delivered to and any Services provided at the premises of the Buyer or elsewhere as requested in Writing by the Buyer by the Seller delivering or arranging delivery of the Goods as a whole or in instalments if agreed during the normal business hours of the Buyer
- 8.1.2 if the Goods are to be collected by the Buyer or the Buyer's authorised representative from an address specified by the Seller at any time after the Seller has notified the Buyer in Writing the Goods are available for collection and the Buyers' authorised representative(s) collect them
- 8.2 Any date for delivery or collection will be quoted to the Buyer in the Order Acceptance but the Seller shall not be liable to the Buyer or any other person for any delay in delivery or making the Goods available for collection regardless of the cause of the delay
- 8.3 Any delivery or collection time quoted to the Buyer is approximate and shall not be of the essence of the Contract
- 8.4 The Goods may be delivered or made available for collection by the Buyer on a single occasion or in agreed instalments at the discretion of the Seller in advance of any quoted or agreed delivery or collection date on the Seller giving reasonable prior notice in Writing to the Buyer
- 8.5 Where the Goods are to be delivered or collected in instalments each delivery or collection shall constitute a separate contract but shall otherwise be subject to the terms of the Contract including these Conditions and
- 8.5.1 failure by the Seller to deliver or make available for collection any one or more instalments in accordance with these Conditions or
- 8.5.2 any claim by the Buyer relating to any one or more of the instalments shall not entitle the Buyer to treat the Contract as a whole as discharged
- 8.6 If the Buyer fails or refuses except for any reason beyond the Buyer's reasonable control
- 8.6.1 to take delivery of the Goods or
- 8.6.2 to give the Seller adequate delivery instructions before the delivery date stated in the Order Acceptance or where appropriate
- 8.6.3 to collect the Goods
- the Seller may store the Goods at until actual delivery takes place and charge the Buyer for the cost of storage and any other incidental costs (including insurance) thereby incurred by the Seller or sell the Goods at the Seller's List Price then applicable or otherwise at the discretion of the Seller the best price reasonably obtainable for the Goods and charge the Buyer for any loss to the Seller (including any price shortfall costs and expenses) arising directly or indirectly from the sale
- 8.7 The Buyer shall not be entitled to reject the Goods by reason only that the Seller delivers up to and including five per cent (5%) more or less than the quantity of the Goods or any individual categories description or type of the Goods listed in the Purchase Order or Order Acceptance but a pro rata adjustment shall be made to the Invoice on receipt of notice from the Buyer and acceptance by the Seller that the wrong quantity category description or type of the Goods was delivered
- 8.8 The remedies referred to in Condition 8.6 shall not restrict or replace any other legal right or remedy available to the Seller
- 8.9 The Seller shall procure compliance with all relevant laws and regulations in force from time to time in respect of the labelling and packaging of the Goods

9. RISK TO GOODS

- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer
- 9.1.1 where the Goods are to be delivered to the Buyer's premises or elsewhere as directed by the Buyer
- 9.1.1.1 on delivery or
- 9.1.1.2 when tendered for delivery if the Buyer fails or refuses to take delivery of the Goods
- 9.1.2 where the Goods are to be collected by the Buyer or the Buyer's authorised representative
- 9.1.2.1 on collection or
- 9.1.2.2 where made available for collection if the Buyer or the Buyer's authorised representative fails or refuses to collect the Goods when the Seller notifies the Buyer the Goods are available for collection
- 9.2 If the Buyer alleges that loss or damage to the Goods has occurred in transit where the Goods are to be delivered or prior to collection where the Goods are to be collected the Buyer shall notify the Seller within not more than three (3) days of delivery or collection of the loss or damage in Writing specifying as precisely as possible the nature of the loss or damage and if known the part or parts of the Goods alleged to be missing or damaged
- 9.3 The Seller shall inspect the Goods as soon as practicable and inform the Buyer in Writing of the conclusions of the Seller's investigation
- 9.4 If the Seller concludes that loss has occurred or that the Goods or any part or parts of them are missing or damaged and the loss or damage was not caused or occasioned by the Buyer the Seller shall inform the Buyer in Writing and at the discretion of the Seller
- 9.4.1 replace the lost or damaged Goods with goods identical or similar in character quality and price to the Goods lost or damaged at the cost of the Seller or
- 9.4.2 refund the Contract Price of the lost or damaged Goods

10. TITLE TO GOODS

- 10.1 Title to the Goods shall not pass to the Buyer until the Buyer has paid the Contract Price in full as cleared funds
- 10.2 Subject to Condition 10.3 if the Goods are to be delivered to the premises of the Buyer or elsewhere as requested by the Buyer until title to the Goods passes to the Buyer in accordance with Condition 10.1 the Buyer shall
- 10.2.1 hold or be deemed to hold the Goods as the fiduciary agent of the Seller and as bailee only

- 10.2.2 keep the Goods separate from those of the Buyer and any other persons correctly and securely stored and insured under the Buyer's insurance policy for not less than the Contract Price adequately packaged and identified by appropriate labelling as the property of the Seller
- 10.3 Condition 10.2 shall not prevent the Buyer from reselling the Goods in the ordinary course of the Buyer's business
- 10.4 Subject to Condition 10.3 until title to the Goods passes to the Buyer the Seller may at any time require the Buyer to deliver up the Goods to the Seller at the Buyer's cost and if the Buyer fails or refuses to do so within the period prescribed by the Seller may enter the premises of the Buyer or any other party where the Goods or those which are unsold are known or believed to be stored or located and if found take immediate possession of them
- 10.5 The Buyer shall not be entitled to pledge or charge the Goods or any of them as security whilst they or any of them remain the property of the Seller
- 10.6 If the Buyer pledges or charges any of the Goods in contravention of Condition 10.5 all monies owed by the Buyer to the Seller in respect of the Goods or otherwise owing and unpaid in respect of other goods or services provided by the Seller shall become due and payable to the Seller immediately
- 10.7 The remedy referred to in Condition 10.6 shall not restrict or replace any other legal right or remedy available to the Seller
- 11. INSPECTION OF GOODS**
- 11.1 The Seller will not undertake any inspection of the Goods except as provided by Condition 9.3 if the Buyer alleges loss or damage to the Goods in transit or that the Goods are defective if the Contract Price has not at the date of the request been paid in full by the Buyer
- 11.2 The Seller shall be entitled to make an additional charge at the Seller's then current time charge out rate for any inspection of the Goods carried out in accordance with Condition 9.3 if the Seller concludes that no loss or damage has been caused or occasioned to the Goods
- 12. WARRANTIES**
- 12.1 The Seller warrants that the Goods will correspond with their description in the Quotation or where the description of the Goods has been varied by agreement with or at the request of the Buyer the Purchase Order and the Order Acceptance at the time of delivery or (where appropriate) collection by the Buyer or the Buyer's authorised representative(s)
- 12.2 Subject as provided by this Condition 12 the Company warrants that the Goods will on delivery be free from defects when used for the purpose for which they were sold to the Buyer
- 12.3 The Seller shall have no liability to the Buyer or the Buyer's customer under Condition 12.2 for defects
- 12.3.1 in the Goods due to wilful damage or negligence on the part of the Buyer or the Buyer's customer's employees agents or independent contractors abnormal working or climatic conditions failure to follow any technical specification advice or instructions of the Seller (whether oral or in Writing) misuse modification or alteration of the Goods without the Seller's prior approval in Writing
- 12.3.2 if the Contract price or any part of the Contract Price has not been paid by the due date of payment
- 12.3.3 due to or arising from or in consequence of any cause or circumstance beyond the control of the Seller including (but not limited to) any defect in the manufacture of the Goods or
- 12.3.4 arising from or in consequence of the use blending or mixing by the Buyer or the Buyer's customer of the Goods
- 12.4 Any warranty claim by the Buyer alleging the quality condition or composition of the Goods is defective or that the Goods do not correspond with any description given in the Quotation or where the Quotation is varied following the submission of the Purchase Order in the Order Acceptance shall
- 12.4.1 where the Goods are delivered or tendered for delivery at the Buyer's premises or elsewhere as requested by the Buyer be notified to the Seller in Writing describing the defect alleged to give rise to the claim as fully and clearly as possible
- 12.4.1.1 within not more than seven (7) days from the date of delivery or tender for delivery if the alleged defect is apparent on reasonable inspection or
- 12.4.1.2 within not more than fourteen (14) days after discovery of the alleged defect if not apparent on reasonable inspection
- 12.4.2 where the Goods are collected by the Buyer or the Buyer's authorised representative(s)
- 12.4.2.1 within not more than three (3) days of the date of collection where the defect alleged to give rise to the claim is apparent on reasonable inspection or
- 12.4.2.2 within not more than ten (10) days after discovery of the alleged defect if not apparent on reasonable inspection
- 12.5 If the Buyer fails to notify the Seller in respect of any claim alleged to arise from a defect in the Goods in accordance with Condition 12.4
- 12.5.1 the Buyer shall not be entitled to reject the Goods due to the alleged defect
- 12.5.2 the Seller shall not be liable for the alleged defect and
- 12.5.3 the Buyer shall pay the Contract Price as if the Goods had been delivered in accordance with the Contract
- 12.6 Where a warranty claim by the Buyer alleging the quality condition or composition of the Goods is defective or the Goods do not correspond with the description given in the Quotation or the Purchase Order or Order Acceptance is notified to and accepted by the Seller in accordance with these Conditions the Seller may at its discretion
- 12.6.1 subject as provided by Condition 12.7 replace the Goods or such of the Goods as are accepted by the Seller as being defective or failing to correspond with their description free of any further charge or if replacement is not reasonably practicable
- 12.6.2 refund the Contract Price or that part of the Contract Price which relates to the defective Goods or the Goods which fail to correspond with their description
- 12.7 Condition 12.6 shall be subject to the Buyer cooperating with the Seller as follows
- 12.7.1 if the Goods are portable and capable of being returned to the Seller by the Buyer returning or procuring the return of the Goods to the Seller at the Buyer's expense as soon as practicable after the Buyer has notified the Seller in Writing of the alleged defect
- 12.7.2 where the Goods are not portable by permitting the Seller by the Seller's authorised representative(s) access to the Buyer's premises or other location of the Goods during normal working hours between the hours of 8.30 and 17.00 Monday to Thursday inclusive and the hours of 8.30 and 16.00 on Friday or outside normal working hours subject to the Buyer agreeing beforehand in Writing if so required by the Seller to reimburse the Seller in full for all travel expenses labour costs and out of pocket expenses and any additional costs incurred by the representative(s) of the Seller attending the Buyer's premises or other location
- 12.8 Subject as provided by Condition 13 the Seller shall have no further or other liability to the Buyer for any claim for breach of warranty in respect of the Goods which the Seller has replaced in accordance with Condition 12.7.1 or in respect of which the Seller has refunded the Contract Price in accordance with Condition 12.7.2

- 12.9 Any Goods returned to the Seller in accordance with these Conditions and the return of which the Seller otherwise agrees to accept shall be notified to and agreed by the Seller in Writing in advance of being returned and registered under any returns policy of the Seller
- 12.10 The Seller reserves the right to reject any Goods which are damaged or have not previously been notified and registered as provided by Condition 12.9 and or are not clearly marked with any returns number provided by the Seller
- 12.11 The Seller reserves the right to charge a handling fee of such amount as it shall reasonably decide for any returned Goods except where the Goods are returned following acceptance by the Seller of a valid warranty claim under Condition 12.6

13. LIABILITY

- 13.1 Except for death or personal injury caused by the Seller's negligence or any liability for defective products otherwise imposed by law the Seller shall not be liable to the Buyer for
- 13.1.1 any representation (unless fraudulent) in respect of the Goods or the Services made in or in connection with the Quotation the Order Acceptance or the Contract or on delivery of the Goods
- 13.1.2 any implied warranty (except as respects the title of the Seller to the Goods) condition or other term
- 13.1.3 any duty under the law of the European Union Act of Parliament or statutory regulation or common law or
- 13.1.4 loss of profit loss of business loss of production loss of data or for any other indirect consequential or incidental loss or damages costs expenses or claims for compensation arising from or in consequence of the provision of the supply of the Goods the provision of the Services or the resale of the Goods by the Buyer
- 13.2 The total liability of the Seller under or pursuant to the Contract shall not exceed the Contract Price except as expressly otherwise required or provided by these Conditions

14. FORCE MAJEURE

- 14.1 The Seller shall not be liable to the Buyer or be treated as being in breach of the Contract or these Conditions due to or arising from any delay in performing or failing to perform any of the Seller's obligations in relation to the Goods or the provision of the Services caused or occasioned by circumstances beyond the reasonable control of the Seller
- 14.2 Without limiting the provisions or extent of Condition 14.1 the following shall be treated as circumstances beyond the Seller's reasonable control
- 14.2.1 act of God explosion flood severe weather conditions fire or serious accident arising in respect of the delivery of the Goods or provision of the Services
- 14.2.2 war or threat of war sabotage insurrection civil disturbance terrorism or military action
- 14.2.3 governmental parliamentary or local authority acts restrictions regulations bye laws prohibitions or other measures
- 14.2.4 import or export restrictions or embargoes
- 14.2.5 strikes lock outs or other industrial actions in trade disputes whether involving employees agents or independent contractors of the Seller (including any haulier engaged by the Seller to deliver the Goods) the Buyer or other persons or
- 14.2.6 difficulty delay or impossibility in obtaining the Goods

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 All intellectual property rights in respect of any trademarks trade names copyright materials and other intellectual property of and originated by the Seller is and shall remain the absolute property of the Seller
- 15.2 The Buyer acknowledges that nothing in the Quotation Offer Acceptance Contract or these Conditions shall operate or be deemed to operate to transfer or vest in the Buyer any intellectual property rights of the Seller
- 15.3 The Seller is licensed to use any trade mark logo or other device of the manufacturer of the Goods reproduced on the Goods or any labelling of the Goods and any packaging in which the Goods are despatched to the Buyer
- 15.4 Except as provided by Condition 15.5 the Seller shall indemnify the Buyer against loss damages costs and expenses awarded against or incurred by the Buyer in respect of any claim that the resale of the Goods by the Buyer or the use of the Goods by any customer of the Buyer infringes the intellectual property rights of any other person.
- 15.5 The indemnity provided by Condition 15.4 shall apply provided
- 15.5.1 the Seller is given full control of any proceedings or negotiations arising in respect of any claim by the Buyer
- 15.5.2 the Buyer gives the Seller all reasonable assistance for the purpose of investigating or pursuing the proceedings or negotiations
- 15.5.3 the Buyer shall not pay or accept any claim (except a final award) or compromise any proceedings without the consent in Writing of the Seller
- 15.5.4 the Buyer shall do nothing which will or might prejudice or jeopardise any policy of insurance or insurance cover which the Buyer or the Seller has in respect of any alleged infringement
- 15.5.5 the Seller shall be entitled to the benefit of and the Buyer shall pay to the Seller all damages and costs (if any) awarded to the Buyer which are payable by or agreed to be paid by any other person in respect of the claim to the extent that the claim is settled and paid by the Seller
- 15.6 Without limiting any duty of the Buyer at common law the Seller may require the Buyer to take any steps reasonably requested by the Seller to mitigate or reduce any loss damages costs or expenses for which the Seller is liable under the indemnity in Condition 15.4
- 15.7 The indemnity provided by Condition 15.4 shall not apply to the extent that the Buyer recovers any insurance money in respect of any infringement of intellectual property rights by the Seller

16. INSOLVENCY OF BUYER

- 16.1 This Condition applies if any of the following circumstances are applicable to the Buyer
- 16.1.1 an order is made or resolution passed for the winding up of the Buyer or circumstances arise which entitle a court of competent jurisdiction to make a winding up order in respect of the Buyer
- 16.1.2 an order is made for the appointment of an administrator to manage the affairs business and property of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating or secured charge holder
- 16.1.3 a receiver is appointed of any of the assets or undertaking of the Buyer or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Buyer or if any other person takes possession of or sells any assets of the Buyer
- 16.1.4 the Buyer makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors
- 16.1.5 the Buyer ceases or threatens to cease trading
- 16.1.6 the Buyer takes or prevents any action identical or similar to the above in any jurisdiction

- 16.1.7 the Seller knows or reasonably believes that any of the events referred to in this Condition 16.1 has occurred or may or is about to occur to the Buyer and notifies the Buyer in Writing without delay of its decision on becoming aware of the circumstances
- 16.2 If Condition 16.1 applies
- 16.2.1 the Seller may cancel the Contract suspend any further deliveries of the Goods under the Contract or refuse to provide or to continue to provide the Services without notice to the Buyer and
- 16.2.2 the Contract Price or any part of it which remains unpaid shall become due and payable immediately regardless of any previous agreement or understanding to the contrary between the Buyer and the Seller
- 16.3 The remedies referred to in Condition 16.2 shall not restrict or replace any other legal right or remedy available to the Seller
- 17. MISUSE OF SELLER'S CREDIT PAYMENT FACILITY**
- 17.1 Any misuse or attempted misuse of the Seller's credit payment facility by the Buyer or anybody with the express or tacit approval or knowledge of the Buyer shall entitle the Seller at its discretion to terminate the Contract and cease any further trading with the Buyer
- 17.2 The Seller shall notify the Buyer in Writing immediately if the Seller decides to terminate the Contract pursuant to Condition 17.1
- 18. DISPUTE RESOLUTION**
- 18.1 If any dispute arises between the Seller and the Buyer about the meaning or effect of these Conditions or their respective rights and responsibilities under them
- 18.1.1 the party in dispute will notify the other in Writing without delay once it is clear that a dispute has arisen stating clearly the reason for and circumstances of the dispute
- 18.1.2 the Seller and the Buyer will then have thirty (30) days from the date of the notice referred to in Condition 18.1.1 to use all reasonable efforts to negotiate in good faith and settle the dispute between themselves
- 18.1.3 if after thirty (30) days the dispute has not been settled to the satisfaction of the Seller and the Buyer they or their authorised representatives will attempt to decide it by mediation in accordance with the Centre for Dispute Resolution Model Mediation Procedure
- 18.2 To begin a mediation under Condition 18.1.3 either party will give notice in Writing to the other requesting a mediation take place not later than thirty (30) days after the date of the notice unless the Seller and the Buyer and the mediator agree a longer or shorter period.
- 18.3 If there is any issue on the conduct of the mediation that the Seller and the Buyer or their authorised representatives cannot agree between themselves within twenty one (21) days of the date of the notice referred to in Condition 18 the mediator will at the request of either party given in Writing decide the matter after consulting them both and his decision will be final
- 18.4 The costs of the mediation in accordance with Condition 18.2 (including the fees of the mediator) shall be paid by the Seller and the Buyer in the proportions the mediator directs or in the absence of direction in equal shares
- 18.5 If the Seller and the Buyer are unable to settle their dispute by mediation either of them may refer it to arbitration by a single arbitrator to be appointed in default of agreement within not more than twenty one (21) days of the service by one party on the other in Writing of a request to agree the proposed appointment by the President for the time being of the Law Society
- 18.6 The decision of any arbitrator appointed in accordance with Condition 18.5 will be final and conclusively binding on the Seller and the Buyer in the absence of serious error and his fee shall be paid by them in the proportions the arbitrator directs or in the absence of direction in equal shares.
- 18.7 Nothing contained in this Condition 18 shall restrict either party's freedom to commence legal proceedings to preserve any legal right or remedy under these Conditions or the Contract or to protect any proprietary or confidential right of that party.
- 19. NOTICES**
- 19.1 Any notice given by either party to the other under these Conditions shall be in Writing addressed to the other party at its registered office or principal place of business or any other address notified to the party giving the notice.
- 20. THIRD PARTY RIGHTS**
- 20.1 No person who or which is not a party to the Contract (including but not limited to any customer of the Buyer) shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms including these Conditions.
- 20.2 Condition 20.1 does not affect or limit any right or remedy of a third party which exists independently of the Contracts (Rights of Third Parties) Act 1999.
- 21. ASSIGNMENT**
- 21.1 The rights and responsibilities of the Buyer under the Contract shall not be assigned by the Buyer without the prior consent in Writing of the Seller.
- 22. VARIATION**
- No variation of the Contract shall be legally effective unless previously agreed in Writing by authorised representatives of the Seller and the Buyer
- 23. ENTIRE AGREEMENT**
- 23.1 The Contract (including these Conditions) constitutes the entire agreement between the Seller and the Buyer for the sale and purchase of the Goods and the provision of the Services subject as varied in accordance with Condition 22
- 24. GENERAL**
- 24.1 No waiver by the Seller of any breach or non performance of the Contract by the Buyer shall be considered a waiver of any later breach or non performance of the same or any other provisions including these Conditions.
- 24.2 If any provision of the Contract (including these Conditions) is held by a court or other competent authority to be invalid or unenforceable in whole or part the validity and enforceability of the remainder shall not be affected.
- 25. LAW AND JURISDICTION**
- 25.1 The Contract shall be governed by the laws of England and the Buyer agrees subject as provided by Condition 18 to submit to the exclusive jurisdiction of the English Courts.